

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESale PRICE
LITIGATION

MDL No. 1456

THIS DOCUMENT RELATES TO:

CLASS 1 JURY TRIAL (ASTRAZENECA)

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

**CLASS PLAINTIFFS' MOTION TO STRIKE CERTAIN
ASTRAZENECA TRIAL WITNESSES**

Class Plaintiffs move to strike the following witnesses identified on AstraZeneca's Rule 26(a)(3)(A) disclosure filed on March 16, 2007 (Dkt. No. 3852).

1. Barrington Furr, Christine McHenry

These are both listed as "may call witnesses." During the class period AstraZeneca employed thousands of people who were involved with the marketing and sale of Zoladex®. During the discovery process the parties worked to limit discovery and to search the files of those employees likely to have relevant documents.

During the course of this litigation AstraZeneca did not search the files of these witnesses. They are not listed on any source list provided by AstraZeneca to Plaintiffs. Now, suddenly, they are deemed to be so relevant that out of hundreds of possible witnesses, AZ has selected them as one of twelve "may call" witnesses. The Court should not allow AstraZeneca to have hidden these witnesses, whose files were not produced, and then spring them forward on the eve of trial. They should be stricken.

2. Richard Fante

Like Mr. Furr and Ms. McHenry, Richard Fante's name likewise does not appear on any AstraZeneca Source Lists provided to Plaintiffs. While his name does appear on call notes of visits to pharmacy benefit managers ("PBMs"), Plaintiffs specifically requested those call notes; they were not otherwise part of AZ's production that AZ itself deemed to be relevant to this case. Moreover, those call notes were produced when self-administered drugs were still part of this case. As this Court knows, Zoladex® is not a self-administered drug. For these additional reasons, Richard Fante should be stricken from AZ's witness list.

DATED: April 9, 2007

By /s/ Steve W. Berman
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CERTIFICATE OF COMPLIANCE

The parties have conferred and not been able to resolve this motion. *See* attached letter.

Steve W. Berman

CERTIFICATE OF SERVICE BY LEXISNEXIS FILE & SERVE

Docket No. MDL 1456

I, Steve W. Berman, hereby certify that I am one of Plaintiffs' attorneys and that, on April 9, 2007, I caused copies of **CLASS PLAINTIFFS' MOTION TO STRIKE CERTAIN ASTRAZENECA TRIAL WITNESSES** to be served on all counsel of record by causing same to be posted electronically via Lexis-Nexis File & Serve.

/s/ Steve W. Berman
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